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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/800,394	03/06/2001	Paul E. Newson	MSFT-0237/147839.2	3296

  

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EXAMINER	
SWEARINGEN, JEFFREY R	

  

ART UNIT	PAPER NUMBER
2145	

  

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

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<b>Office Action Summary</b>	<b>Application No.</b> 09/800,394	<b>Applicant(s)</b> NEWSON ET AL.	
	<b>Examiner</b> Jeffrey R. Swearingen	<b>Art Unit</b> 2145	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 17 May 2007.  
 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.  
 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-8, 22, 23, 25-28 and 64-69 is/are pending in the application.  
 4a) Of the above claim(s) 22, 23 and 25-28 is/are withdrawn from consideration.  
 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
 6) ☒ Claim(s) 1-8 and 64-69 is/are rejected.  
 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) ☐ All. b) ☐ Some \* c) ☐ None of:  
 1. ☐ Certified copies of the priority documents have been received.  
 2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Election/Restrictions*

1. Claims 22-23 and 25-28 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 5/17/2007.

### *Response to Arguments*

2. Applicant's arguments filed 2/15/2007 have been fully considered but they are not persuasive.
3. The rejection under 35 USC 101 has been withdrawn.
4. The rejections under 35 USC 112, second paragraph have been withdrawn.
5. Applicant argued DeSimone failed to disclose two topologies where the set of devices to which data can be addressed in each topology is different. This is the conference feature of DeSimone. Clients joining and leaving separate conferences are present in "different topologies." Each different conferencing configuration is a different topology. When a client joins a multicast group, it enters a different topology. Each time a client enters or leaves a multicast group, the topology changes. A unicast point-to-point topology as found in column 6, lines 26-57 sends data to another point-to-point multicast topology. Applicant's specification failed to give a definition of what a topology is, and evidence in the specification (Figures 5-10) supports this reading of the "topology" term as made by a reasonable person who is of ordinary skill in the art.
6. The arguments concerning claim 22 are moot, claim 22 being withdrawn by election.

### *Claim Rejections - 35 USC § 102*

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section

Art Unit: 2145

351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

8. Claims 1, 3-8 and 65-69 are rejected under 35 U.S.C. 102(e) as being anticipated by DeSimone et al. (US 6,138,144).

9. In regard to claims 1 and 8, DeSimone disclosed:

*joining a session having a second session topology which defines a second set of one or more of said second devices to which data may be directly addressed from said first device, said destination device being a member of said second set; [column 5, lines 5-50]*

*creating a first data package which contains: (a) said first data; and (b) a header;*  
[column 5, lines 51-67. The transmission of video data inherently includes first data and a header. The header gives the address of where the data is to be sent.]

*addressing said first data package to said destination device; [Inherent to data transmission in either an IP or ATM network]*

*sending said first data package to said destination device according to said first session topology. [column 6, lines 1-25]*

10. In regard to claims 3 and 65, DeSimone disclosed:

*appending a header to said data package which indicates that said data package is to be delivered to said destination device; [inherent to data transmission in DeSimone, regardless of whether using IP or ATM] and*

*sending said data package to a host device different from said destination device, said host device being a member of said first set. [column 5, lines 30-43]*

11. In regard to claims 4 and 66, DeSimone disclosed:

*said destination device is a member of said first set. [column 5, lines 51-57]*

12. In regard to claims 5 and 67, DeSimone disclosed:

*in said host device, receiving a second data package from a second device, said data package comprising: (a) second data; and (b) a header which indicates that said data package is to be delivered to said destination device; [inherent to data transmission in DeSimone] and*

Art Unit: 2145

*said host device sending to said destination device a mixed stream comprising said first data and said second data. [column 6, lines 2-16. The addition of a video multicast to an ongoing conference comprised a mixed stream of first data and second data.]*

13. In regard to claims 6 and 68, DeSimone disclosed:

*in said host device, receiving a second data package from a second device, said data package comprising: (a) second data; and (b) a header which indicates that said data package is to be delivered to said destination device; [inherent to data transmission in DeSimone] and*

*said host device sending said first and second data packages separately to said destination device. [column 6, lines 2-16]*

14. In regard to claims 7 and 69, DeSimone disclosed:

*sending said first data package using non-guaranteed delivery. [Video transmission in IP is done via UDP, which is a non-guaranteed delivery method.]*

#### ***Claim Rejections - 35 USC § 103***

15. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

16. Claims 2 and 64 are rejected under 35 U.S.C. 103(a) as being unpatentable over DeSimon in view of Applicant's admitted prior art.

17. DeSimone taught the transmission of multimedia data over an ATM network. DeSimone further taught conferencing with audio was well known in the art at the time of DeSimone's invention. DeSimone, column 2, line 37. DeSimone failed to disclose capturing audio with a microphone.

18. Applicant's background further taught voice conferencing was well known in the prior art. Specification, pages 1-2. Applicant's background failed to disclose capturing audio with a microphone.

Art Unit: 2145

19. It would have been obvious to one of ordinary skill in the art at the time of the invention to use a microphone with DeSimone to capture audio data for voice or videoconferencing. One would have been motivated to do so because in order to transmit voice data in a videoconference, one must capture said voice data using a microphone.

**Conclusion**

20. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Birdwell et al. US 6,032,197

Broussard et al. US 6,317,776 B1

21. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey R. Swearingen whose telephone number is (571) 272-3921. The examiner can normally be reached on M-F 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jason Cardone can be reached on 571-272-3933. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2145

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Jason Cardone  
Supervisory Patent Examiner  
Art Unit 2145

JRS